# CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	M	Force		Discourt.	☐ U.S.
Alfredo Gonzalez		Squad #3	201103456	-	Abuse	П	O.L.	☐ Injury
		4						
Incident Date(s)		Location of Incident:		F	Precinct:	18	Mo. SOL	EO SOL
Thursday, 03/17/2011 9:45 AM					42	9,	/17/2012	9/17/2012
Date/Time CV Reported		CV Reported At:	How CV Reported:		Date/Time	Rece	eived at CCl	RB
Thu, 03/17/2011 10:11 PM		CCRB	Call Processing System		Thu, 03/17	//201	1 10:11 PM	[
Complainant/Victim	Type	Home Addre	ess					
Witness(es)		Home Addre	ess					
Subject Officer(s)	Shield	TaxID	Command					
1. POM Galvin Ferguson	02902	929434	042 PCT					
2. POM Cesar Garcia	22263	932691	042 PCT					
3. DTS David Terrell	4523	931316	042 PCT					
4. Officers								
Witness Officer(s)	Shield N	o Tax No	Cmd Name					
1. SGT Johnny Diaz	03186	918944	PBBX					
Officer(s)	Allegation	on			Inve	stiga	ator Recon	nmendation
A.POM Galvin Ferguson	Force: A Galvin F	t erguson used physical fo	in the Bronx, Police orce against	Of	ficer			
B.POM Cesar Garcia	Force: A Cesar Ga	t arcia used physical force	in the Bronx, Police	Of	ficer			
C.DTS David Terrell		t the 42nd Precinct stationsed pepper spray against		Davi	id			
D.DTS David Terrell		t the 42nd Precinct stationsed physical force again		Davi	id			
E.DTS David Terrell		t the 42nd Precinct stationsed a chokehold against	*	Davi	id			
F.DTS David Terrell		t the 42nd Precinct stationsed physical force again		Davi	id			
G. Officers		at the 42nd Precinct stati	ionhouse, officers di	d no	ot			

## **Case Summary** filed this complaint, via the Call Processing System, on behalf of herself on March 17, 2011. This case was closed as complainant uncooperative on May 20, 2011; however, on December 31, 2015, the Board granted request to reopen the case. On March 17, 2011, at approximately 9:45 a.m., was attending school at the Bronx Leadership Academy – located at ■ in the Bronx – when he was asked to step out of class by an assistant principal, after which he encountered PO Cesar Garcia and PO Galvin Ferguson of the 42<sup>nd</sup> Precinct. The officers placed in handcuffs and took him to a security room within the school. Inside the security room, PO Ferguson and PO Garcia allegedly removed handcuffs and punched him in the face and torso, causing him to sustain a "busted" lip (Allegations A and B). Afterward, was transported to the 42<sup>nd</sup> Precinct stationhouse. While at the stationhouse, Det. David Terrell allegedly pepper sprayed and punched (Allegations C and D). we went to the stationhouse, with her after finding out that her son had been and her daughter arrested, but officers commanded her to leave. exited the stationhouse and was walking away when Det. Terrell went after her and allegedly put his arm around her neck, while behind her, and took her to the ground, causing her to land on her back (Allegations E and F). was then placed in handcuffs. was charged with resisting arrest and obstructing governmental administration. back was allegedly injured during the incident. was charged with assault. There was no video footage available for this case. Mediation, Civil, and Criminal Histories This case was unsuitable for mediation due to previous attorney, filed a Notice of Claim on her behalf in 2012, seeking two million dollars in damages for her "false arrest, unlawful imprisonment, malicious prosecution, assault, battery, violation of state and federal, civil, and constitutional rights, personal injuries and suffering, embarrassment, humiliation, and emotional and mental

previous attorney, filed a Notice of Claim on her behalf in 2012, seeking two million dollars in damages for her "false arrest, unlawful imprisonment, malicious prosecution, assault, battery, violation of state and federal, civil, and constitutiona rights, personal injuries and suffering, embarrassment, humiliation, and emotional and menta distress" (BR 01).

A request regarding 50H hearing was sent on July 12, 2016, but there has been no response (BR 02).

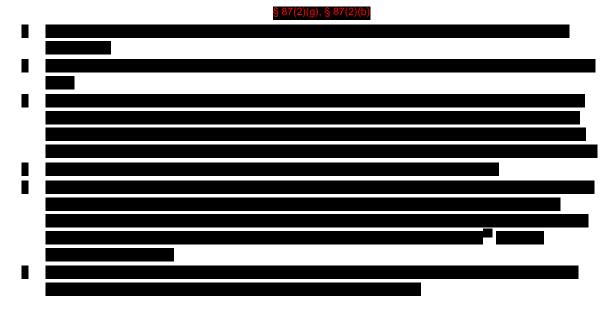
did not file a Notice of Claim against the City of New York (BR 03).

### **Civilian and Officer CCRB Histories**

This is 12<sup>th</sup> CCRB complaint; however, most of her complaints were forwarded to OCD. In CCRB 201510704, allegation of excessive force by her arresting officer was exonerated (BR 06).

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- This is fifth CCRB complaint; however, most of his complaints were forwarded to OCD. In CCRB 200900817, was listed as a victim to excessive force, but the case was closed as victim uncooperative (BR 07).
- PO Garcia has been a member of the NYPD for 13 years. He has been the subject of four allegations stemming from three cases. None of the allegations were substantiated. PO Garcia's CCRB history does not demonstrate a pattern applicable to this case.
- PO Ferguson has been a member of the NYPD for 14 years. He has been the subject of 12 allegations stemming from five cases. None of the allegations were substantiated. PO Ferguson's CCRB history does not demonstrate a pattern applicable to this case.
- Det. Terrell has been a member of the NYPD for 14 years. He has been the subject of 85 allegations stemming from 36 cases. In CCRB 200610262, a refusal to provide name and shield allegation was substantiated. The CCRB recommended command discipline B, which the NYPD imposed. In CCRB 200910811, a refusal to provide name and shield and a discourtesy allegation were substantiated. The CCRB recommended charges, but the NYPD opted not to take any disciplinary action. In CCRB 201504682, a failure to show search warrant allegation was substantiated, and he was cited for a false official statement. The CCRB recommended command discipline B. Approximately one third (27) of the allegations against Det. Terrell are force allegations.

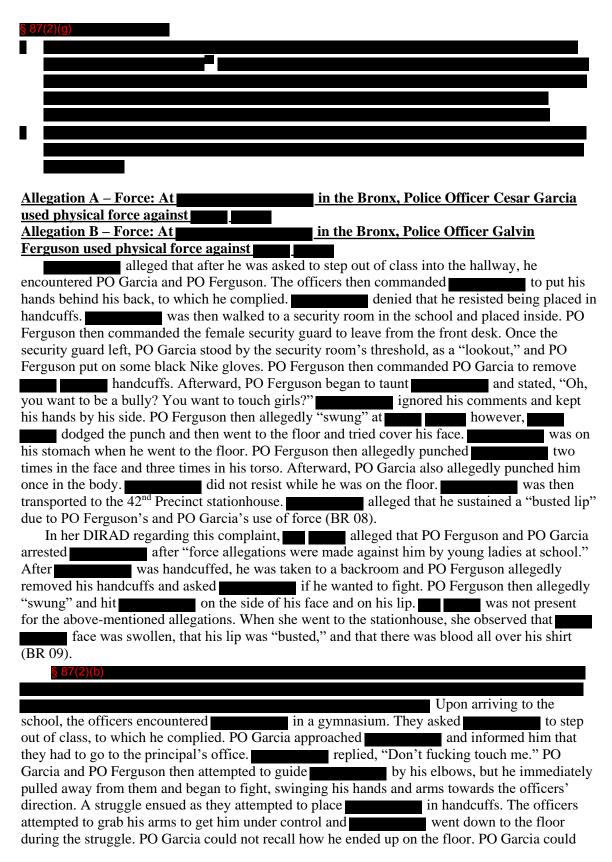


#### **Findings and Recommendations**

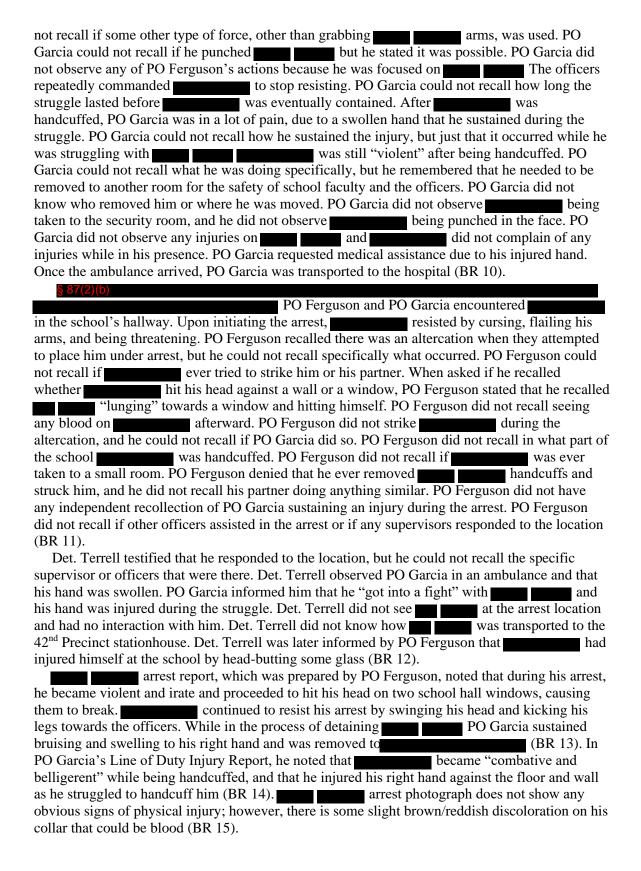
## **Explanation of Subject Officer Identification**

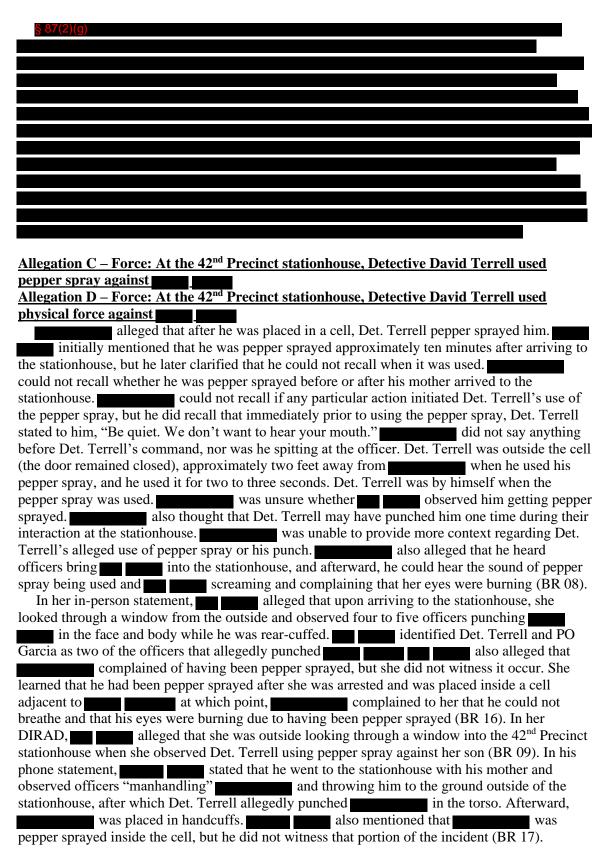
•	In her DIRAD message, described the officer who allegedly pepper sprayed
	and who placed her in handcuffs as a tall black male with a medium build and bald.
	During her in-person statement, provided Det. Terrell's name and confirmed that
	he was the officer that placed her in handcuffs.
	allegedly pepper sprayed him as a tall black officer. Det. Terrell is 6'3" tall, 245 pounds, and
	bald, which corresponds with the descriptions offered by
	Therefore, the pepper spray allegation (related to and the force allegations
	(related to have been pleaded against him.

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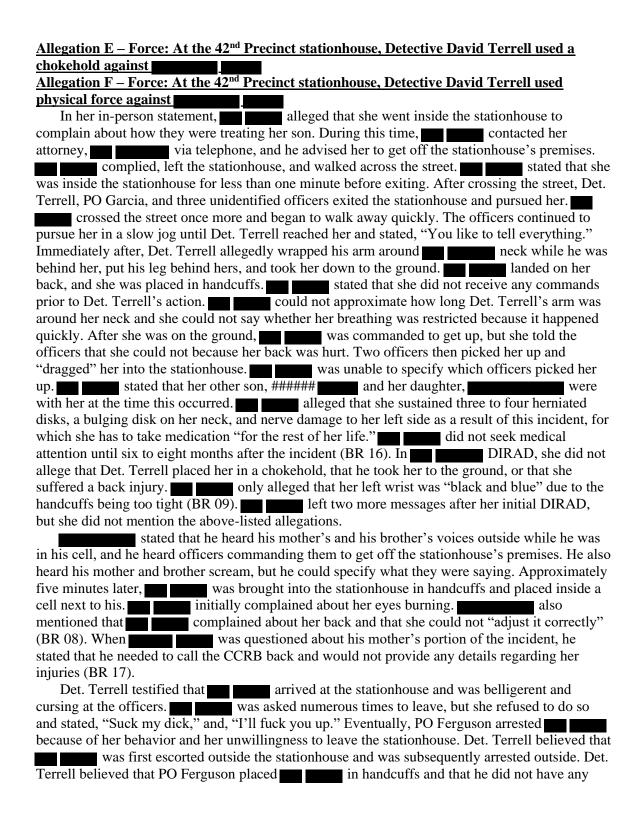
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Det. Terrell testified that he did not recall interacting with or speaking with him
at the stationhouse. Det. Terrell denied that he ever punched and he did not recall using pepper spray against but if he had, he stated that there would be a medical
treatment of prisoner report stating so. Det. Terrell did not observe any other officer pepper spray
or punch (BR 12). PO Ferguson testified that he processed arrest at the 42 <sup>nd</sup> Precinct stationhouse. PO Ferguson placed inside a holding cell, but he
could not recall if there were other prisoners with him. PO Ferguson did not pepper spray
while he was in the stationhouse, and he did not see any other officer do so. PO Ferguson did not strike while he was in the stationhouse, and he did not observe any other
did not strike while he was in the stationhouse, and he did not observe any other officer do so. PO Ferguson did not recall observing any injuries on and he did not
recall if complained of any (BR 11). Sgt. Diaz had no recollection of the incident (BR
18). § 87(2)(b)
8 67 (2)(0)
§ 87(2)(g)
S ○1 (=)(9)
§ 87(2)(g)



issues handcuffing her. Det. Terrell denied that he placed in a chokehold or that he
took her to the ground, and he did not observe any other officer do so (BR 12).
PO Ferguson testified that arrived at the stationhouse and behaved belligerently.
cursed and was threatening, but PO Ferguson could not recall any specific statements
she made or actions she took. At some point, was escorted out of the stationhouse due
to her behavior. PO Ferguson did not personally escort her out or assist. PO Ferguson could not
recall which officer escorted out of the stationhouse. PO Ferguson recalled that Det.
Terrell was in the stationhouse when the above-mentioned incident occurred. PO Ferguson did
not have any independent recollection of being arresting officer and he could not
recall what occurred after was escorted out of the stationhouse. PO Ferguson did not
recall being involved in placing in handcuffs, and he denied that he, or any other
officer, placed in a chokehold and took her to the ground (BR 11). Sgt. Diaz had no
independent recollection of any incident involving (BR 18).
§ 87(2)(b)
§ 87(2)(g)
Allegation G: At the 42 <sup>nd</sup> Precinct stationhouse, officers did not obtain medical treatment
for the second s
In her in-person statement, alleged that she screamed that she and
needed to see a doctor while they were inside their cells, but officers were unresponsive and they
did not receive any medical treatment. acknowledged that she did not address her
request to a specific officer. did not mention that EMS responded to the stationhouse
for DIRAD, stated that EMS arrived to the
location, but that the officers lied to EMS and stated that and and denied
their assistance (BR 09). stated that after he and had been placed in their
cells, he could hear his mother asking for medical treatment.
EMS responded to the location at approximately 6 p.m., but he did not know if his mother
received treatment (BR 08). Both and and stated that they were placed in
cells adjacent to each other.
PO Ferguson did not have any independent recollection of EMS responding to the
stationhouse for nor did he recall why EMS was requested to the location. PO
Ferguson could not recall if requested medical attention or if EMS responded to the
stationhouse for her (BR 11). Det. Terrell could not recall if he was present when EMS arrived

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and he did not know what type of tre		received. A	After departing, Det. Terrell
did not have any further interaction § 87(2)(g)	with	r	(BR 12).
<u> </u>			
§ 87(2)(g)			
Squad:			
Investigator:			
Signature	Print	-	Date
Supervisor:	Print		Date
Reviewer:			
Title/Signature	Print	]	Date